

TITLE 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

(Authority: A.R.S. §§ 41-1308 and 41-1309)

ARTICLE 1. CRIME VICTIM COMPENSATION PROGRAM

(Authority: A.R.S. §§ 41-2407 and 41-2402)

Article 1, consisting of Sections R10-4-101 through R10-4-111, adopted effective December 31, 1986.

Section

- R10-4-101. Definitions
- R10-4-102. Administration of the Fund
- R10-4-103. Statewide Operation
- R10-4-104. Operational Unit Requirements
- R10-4-105. Crime Victim Compensation Board
- R10-4-106. Award Criteria
- R10-4-107. Hearings and Appeals
- R10-4-108. Emergency Awards
- R10-4-109. Renumbered
- R10-4-110. Renumbered
- R10-4-111. Repealed

ARTICLE 2. CRIME VICTIM ASSISTANCE PROGRAM

(Authority: A.R.S. §§ 41-2408 and 41-2402)

Article 2, consisting of Sections R10-4-201 through R10-4-207, adopted effective December 22, 1986.

Section

- R10-4-201. Definitions
- R10-4-202. Administration of the Fund
- R10-4-203. Program Requirements
- R10-4-204. Services
- R10-4-205. Renumbered
- R10-4-206. Renumbered
- R10-4-207. Repealed

ARTICLE 3. REPEALED*Article 3, consisting of R10-4-301 through R10-4-305, adopted summary rules filed March 16, 1998; interim effective date of November 28, 1997, now the permanent effective date (Supp. 98-1).**Article 3, consisting of R10-4-301 through R10-4-305, repealed by summary action with an interim effective date of November 28, 1997; filed in the Office of the Secretary of State November 3, 1997 (Supp. 97-4).**Article 3, consisting of Sections R10-4-301 through R10-4-305, adopted effective September 11, 1986.***ARTICLE 4. DRUG AND GANG ENFORCEMENT ACCOUNT ADMINISTRATIVE PROGRAM***Article 4 consisting of Sections R10-4-401 through R10-4-404 adopted as permanent rules effective July 18, 1988.**Article 4 consisting of Sections R10-4-401 through R10-4-404 adopted as an emergency effective February 22, 1988 pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.*

Section

- R10-4-401. Definitions
- R10-4-402. Application
- R10-4-403. Application Review; Approval by the Commission
- R10-4-404. Annual Report

ARTICLE 5. FULL-SERVICE FORENSIC CRIME LABORATORY ACCOUNT*Article 5, consisting of Sections R10-4-501 through R10-4-504, made by final rulemaking at 7 A.A.R. 2217, effective May 11, 2001 (Supp. 01-2).*

Section

- R10-4-501. Definitions
- R10-4-502. Grant Solicitation Process
- R10-4-503. Grant Application Review; Approval by the Commission
- R10-4-504. Reports

ARTICLE 1. CRIME VICTIM COMPENSATION PROGRAM**R10-4-101. Definitions**

In these rules:

1. "Allowable expense" means an amount authorized under these rules to be paid as a compensation award by the Board to a victim, a derivative victim, or both for economic loss.
2. "Board" means the Crime Victim Compensation Board of an operational unit.
3. "Claimant" means any natural person, filing a claim under these rules and authorized to receive a compensation award for economic loss because the person is:
 - a. A victim of criminally injurious conduct;
 - b. A resident of this state who is injured by an act of international terrorism;
 - c. A derivative victim;
 - d. A person authorized to act on a victim's behalf, or a person authorized to act on behalf of a deceased victim's dependent if the victim died as a direct result of criminally injurious conduct or an act of international terrorism; or
 - e. A person who assumes an obligation or pays an expense directly related to a victim's economic loss incurred as a direct result of criminally injurious conduct or an act of international terrorism.
 - f. Claimant does not mean:
 - i. An offender, an accomplice of the offender, or a person who encouraged or in any way participated in or facilitated criminally injurious conduct or an act of international terrorism;
 - ii. A person serving a sentence of imprisonment in any detention facility, home arrest program, work furlough, or a person who has escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism; or
 - iii. A person convicted of a federal crime who is delinquent in paying a fine, monetary penalty, or restitution imposed for the offense only if the U.S. Attorney General and the Director of the Administrative Office of the U.S. Courts have issued a written determination that the entities administering federal victim programs have access to an accurate and efficient criminal debt payment tracking system.

4. "Collateral source" means a source of compensation for economic loss that a claimant has received, or that is available to a claimant including:
 - a. The offender or a 3rd party responsible for the offender's actions;
 - b. The United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of 2 or more states, unless the law providing for the compensation makes the compensation excess or secondary to benefits under this rule, specifically excluding those federal funds granted under 42 U.S.C. 10602;
 - c. Social Security, Medicare, or Arizona Health Care Cost Containment System payments;
 - d. State-required, temporary, nonoccupational disability insurance;
 - e. Worker's compensation insurance;
 - f. Wage continuation program of any employer;
 - g. Insurance proceeds payable to the victim or claimant for loss sustained due to the criminally injurious conduct or an act of international terrorism; or
 - h. A contract providing for prepaid hospital and other health care services or disability benefits.
5. "Commission" means the Arizona Criminal Justice Commission, as established by A.R.S. § 41-2404.
6. "Criminally injurious conduct" means conduct that:
 - a. Constitutes a crime as defined by the laws of this state whether or not the perpetrator of the act is convicted;
 - b. Poses a substantial threat of physical injury, extreme mental distress or death; and
 - c. Is punishable by fine, imprisonment, or death, or would be punishable but the person engaging in the conduct lacked capacity to commit the crime under applicable laws.
7. "Derivative victim" means:
 - a. The spouse, child, parent, stepparent, stepchild, sibling, or guardian of a victim who died as a result of criminally injurious conduct or an act of international terrorism and includes a child born after the victim's death.
 - b. A person living in the household of a victim who died as a result of criminally injurious conduct, in a relationship determined by the Board to be substantially similar to a relationship in subsection (7)(a).
 - c. A member of the victim's family who witnessed the criminally injurious conduct.
 - d. A nonfamily member who witnessed a violent crime.
 - e. A person whose mental health counseling and care or presence during the victim's mental health counseling and care is required for the successful treatment of the victim.
8. "Economic loss" means financial detriment consisting only of medical expenses, mental health counseling and care expenses, work loss, and funeral expenses.
9. "Extreme mental distress" means a substantial personal disorder of emotional processes, thought or cognition that impairs judgment, behavior, or ability to cope with the ordinary demands of life.
10. "Fund" means the Crime Victim Compensation and Assistance Fund.
11. "Funeral expense" means cost incurred as a direct result of a victim's funeral, cremation, or burial.
12. "International terrorism" means an act as defined in 18 U.S.C. 2331 (October 29, 1992), incorporated by reference and on file with the Commission and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments;
13. "Jurisdiction" means any county in this state.
14. "Medical expense" means cost related to medical care due to a physical injury resulting from criminally injurious conduct or an act of international terrorism. Medical expense includes a cost resulting from damage to a prosthetic device or a dental device. Medical expense does not include a charge for a private room in a hospital, clinic, convalescent home, nursing home, or any other institution engaged in providing nursing care and related services, unless private accommodations are medically required.
15. "Mental health counseling and care expense" means a cost related to the assessment, diagnosis, and treatment of a victim's mental and emotional health that is required to alleviate extreme mental distress resulting from criminally injurious conduct or an act of international terrorism. Mental health counseling and care expense does not include the cost for a private room in a hospital, clinic, convalescent home, nursing home, or any other institution engaged in providing nursing care and related services, unless private accommodations are medically required.
16. "Operational unit" means a public or private agency authorized by the Commission to receive, evaluate, and present to the Board compensation claims from a claimant under these rules and state law.
17. "Program" means the Crime Victim Compensation Program.
18. "Subrogation" means the substitution of the state and an operational unit, to the extent that the operational unit used the operational unit's funds, in place of the claimant to enforce a lawful claim against a collateral source to recover any part of a compensation award.
19. "Work loss" means a reduction in income from work that a victim would have performed if the victim had not been injured or killed. Work loss does not include any income earned from substitute work or income available to the victim from appropriate substitute work that the victim was capable of performing but unreasonably failed to perform.
20. "Victim" means a person who suffers physical injury, extreme mental distress, or death as a direct result of any of the following:
 - a. Criminally injurious conduct,
 - b. An act of international terrorism,
 - c. A person's good faith effort to prevent criminally injurious conduct, or
 - d. A person's good faith effort to apprehend a person suspected of engaging in criminally injurious conduct or an act of international terrorism.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Section repealed; new Section R10-4-101 renumbered from R10-4-103 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4).

R10-4-102. Administration of the Fund

- A. The Commission shall deposit all funds received under A.R.S. § 12-116.01 and any other funds received for compensating a crime victim in the Fund.
- B. The Commission shall designate 1 operational unit in a jurisdiction to receive an allocation from the Fund each state fiscal year.

- C. The Commission shall distribute a portion of the Fund to each designated operational unit for expenditure by the Board. Funds shall be distributed by a formula determined annually by the Commission. The formula shall be derived using:
 - 1. An analysis of prior year's expenditure history, and
 - 2. A uniform base amount with the remaining funds divided among jurisdictions based on population.
- D. The Commission shall reserve the lesser of \$50,000 or 10% of the Fund to be used in the event of an unforeseen increase of victimization by criminally injurious conduct or an act of international terrorism, when compensation cannot be provided by an operational unit.
- E. If there is an unforeseen increase in victimization by criminally injurious conduct or an act of international terrorism, the Commission shall allow a claimant to apply directly to the Commission for compensation based on criteria established by R10-4-106.
- F. If any funds received from the Commission remain unexpended by the Board at the end of a fiscal year, the funds shall be returned to the Commission within 45 days after the end of the fiscal year and redeposited in the Fund for use in the next fiscal year.
- G. Funds collected by an operational unit through subrogation and restitution may be retained by the operational unit to the extent authorized by the Commission and shall be used to pay compensation awards based on the criteria established by R10-4-106.
- H. An operational unit that receives additional funds for victim compensation shall submit a written report to the Commission. The report shall contain the amount of additional funds distributed to compensate crime victims. The Commission shall use the information in the written report to apply for federal matching funds from the Victims of Crime Act Fund (42 U.S.C. 10601 et seq. [November 26, 1997]). If matching funds are received, the Commission shall forward the matching funds to the appropriate operational unit.
- I. The operational unit may use funds to pay administrative costs to the extent authorized by the Commission.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
 Amended effective October 28, 1994 (Supp. 94-4). Section repealed; new Section R10-4-102 renumbered from R10-4-104 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4).

R10-4-103. Statewide Operation

For any portion of the state not served by an operational unit the Commission may operate a compensation program in accordance with these rules or may provide for a program by contract.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
 Amended effective October 28, 1994 (Supp. 94-4).
 Amended effective June 12, 1997 (Supp. 97-2). Former Section R10-4-103 renumbered to R10-4-101; new Section R10-4-103 renumbered from R10-4-105 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4).

R10-4-104. Operational Unit Requirements

- A. A public or private agency seeking designation as an operational unit shall submit a letter to the Commission requesting designation.
- B. To be eligible to receive designation and funding by the Commission as the operational unit for a jurisdiction, the public or private agency shall agree to:
 - 1. Not use Commission funds or federal funds to supplant funds otherwise available to the program for crime victim compensation;
 - 2. Make no distinction between residents and non-residents in evaluating claims made by or on behalf of victims and derivative victims of criminally injurious conduct occurring in the public or private agency's jurisdiction;
 - 3. Forward to the Board compensation claims of victims and derivative victims of criminally injurious conduct occurring in this state;
 - 4. Forward to the Board compensation claims of victims and derivative victims of criminally injurious conduct occurring in the public or private agency's jurisdiction;
 - 5. Forward to the Board a compensation claim of a resident of the public or private agency's jurisdiction who is a victim or derivative victim of criminally injurious conduct or an act of international terrorism occurring in another state, the District of Columbia, Puerto Rico, or any other possession or territory of the United States that does not have a crime victim compensation program that meets the requirements of 42 U.S.C. 10602(b)(1)-(6);
 - 6. Notify the Commission of any changes in the public or private agency's procedures before the changes take effect. If the changes are material, the public or private agency shall receive prior written approval from the Commission before instituting the changes;
 - 7. Submit a written quarterly report to the Commission on a form provided by the Commission that describes in detail the public or private agency's activities under this rule. The report shall include:
 - a. The impact that Commission funds had on the public or private agency;
 - b. The amount and source of revenue available for victim compensation;
 - c. The total number of claims, awards, denials, pending claims, total amount of awards; and the ethnic background, disability, age, and sex of each victim;
 - d. The total number of claims for state resident and nonresident victims; the number and award amount by type of crime; and the number and award amount by type of expense, including medical, mental health counseling, work loss, and funeral;
 - e. The type of provider for mental health counseling and care awards including psychiatrist, psychologist, rape crisis center, and community mental health center; the number, amount, and duration of mental health counseling and care awards; and
 - f. Referral sources;
 - 8. Provide application forms to all persons who claim an award as a result of criminally injurious conduct or an act of international terrorism that occurred in the public or private agency's jurisdiction. The application form shall contain the following information:
 - a. The name, address, ethnic background, age, and sex of the victim or derivative victim of the criminally injurious conduct or act of international terrorism;
 - b. The claimant's name, address and relationship to the victim;
 - c. If the victim is deceased, the name and address of each derivative victim, and the extent to which each was dependent on the victim for financial support;
 - d. The nature of the criminally injurious conduct or act of international terrorism and the date the conduct occurred;

- e. The law enforcement agency or officer to whom the criminally injurious conduct or act of international terrorism was reported;
 - f. The nature and extent of the injuries the victim sustained from the criminally injurious conduct or act of international terrorism;
 - g. The name and address of any person providing medical treatment to the victim and the name and address of any hospital or similar institution where the victim received medical treatment for the injuries;
 - h. The economic loss sustained as a result of the criminally injurious conduct or act of international terrorism;
 - i. The name and amount of any collateral source the victim, a derivative victim, or a claimant has received or is entitled to receive for economic loss as a result of the criminally injurious conduct or act of international terrorism;
 - j. An affirmation that the claimant is not;
 - i. An offender, accomplice, or facilitator of the criminally injurious conduct or an act of international terrorism;
 - ii. Serving or was not serving a sentence of imprisonment in any detention facility, home arrest program, work furlough and has not escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism;
 - k. A release authorizing the unit's investigative agent to obtain any report, document, or information that relates to the determination of a compensation claim.
9. Comply with all civil rights requirements; and
10. Ensure each compensation claim is monitored, investigated, and substantiated before forwarding the claim to the Board for an award.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
 Amended effective October 28, 1994 (Supp. 94-4).
 Amended effective June 12, 1997 (Supp. 97-2). Former Section R10-4-104 renumbered to R10-4-102; new Section R10-4-104 renumbered from R10-4-106 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4).

R10-4-105. Crime Victim Compensation Board

- A. Each operational unit shall establish a Crime Victim Compensation Board. The Board shall consist of an odd number with at least 3 members. The Board shall be appointed by the Commission Chairman from a list submitted by the operational unit. Members of the Board shall receive no compensation for their services.
- B. Each appointed member's term shall be 3 years; except those members first appointed. Approximately one-third shall be appointed for a 3-year term, one-third for a 2-year term, and one-third for a 1-year term. All vacancies, except through the expiration of term, shall be filled for the unexpired term only. The Commission Chairman shall appoint a member to complete a vacated term from a list submitted by the operational unit.
- C. The majority of the Board membership constitutes a quorum for the transaction of business. The Board shall elect from its

membership a chairman and other officers as necessary, to serve terms determined by the Board.

- D. The Board shall make a compensation award according to these rules and perform other acts necessary for the operation of the program.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
 Former Section R10-4-105 renumbered to R10-4-103;
 new Section R10-4-105 renumbered from R10-4-107 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4).

R10-4-106. Award Criteria

- A. The Board shall meet at least every 60 days to decide, based on the investigative agent's findings, whether to make an award, the terms of the award, and the amount of the award. The Board shall render a decision within 60 days of receipt of an application by the operational unit except where good cause exists. The Board shall inform the applicant of the Board's decision in writing within 5 days of the decision.
- B. The Board shall not make a compensation award unless it determines that:
 - 1. Criminally injurious conduct or an act of international terrorism was committed;
 - 2. The criminally injurious conduct or act of international terrorism directly resulted in physical injury to, extreme mental distress to, or death of the victim;
 - 3. The criminally injurious conduct or act of international terrorism was reported to the appropriate law enforcement authority within 72 hours after its discovery unless good cause is shown to justify a delay; and
 - 4. The compensation application was submitted to the operational unit within 2 years of the discovery of the criminally injurious conduct or act of international terrorism unless good cause is shown to justify a delay.
- C. The Board shall make a compensation award from the Fund only for the following:
 - 1. Medical expenses due to a victim's physical injury or death resulting from criminally injurious conduct or an act of international terrorism;
 - 2. Work loss for;
 - a. A victim's physical injury, extreme mental distress, or death resulting from criminally injurious conduct or an act of international terrorism. The compensation award for work loss, after deducting any collateral source for work loss, shall not exceed an amount equal to 40 hours per week at the current federal minimum wage standard for each week of work loss to the maximum allowable under subsection (D)(1);
 - b. A deceased victim's spouse, child, sibling, or parent if the Board determines the death resulted in a loss of support from the victim to the spouse, child, sibling, or parent. The compensation award for work loss, after deducting any collateral source for work loss, shall not exceed an amount equal to 40 hours per week at the current federal minimum wage standard for each week of work loss to the maximum allowable under subsection (D)(1);
 - c. A parent or guardian of a minor victim to transport or accompany the victim to a medical, mental health counseling and care visit, or court proceeding. The compensation award for work loss, after deducting any collateral source for work loss, shall not exceed an amount equal to 40 hours per month at the current federal minimum wage standard for each month of

work loss to the maximum allowable under subsection (D)(1); or

- d. A victim or derivative victim to attend court proceedings. The compensation award for work loss, after deducting any collateral source for work loss, shall not exceed an amount equal to 40 hours per month at the current federal minimum wage standard for each month of work loss to the maximum allowable under subsection (D)(1).
- 3. Funeral expenses due to a victim's death resulting from criminally injurious conduct or an act of international terrorism. The compensation award for funeral expense shall not exceed \$5,000; and
- 4. Mental health counseling and care expenses due to a victim's or derivative victim's extreme mental distress resulting from criminally injurious conduct or an act of international terrorism. Mental health counseling and care expenses cannot exceed a 36 month period starting with the 1st treatment. Mental health counseling and care for derivative victims shall be included as a portion of the maximum award.
- D. The Board shall not make a compensation award to a claimant that exceeds:
 - 1. Twenty thousand dollars in the aggregate for a victim and any derivative victim, and
 - 2. The amount existing in the Fund and not committed to other compensation awards at the time the Board makes the compensation award determination.
- E. The Board shall deny or reduce a compensation award to a claimant if:
 - 1. The economic loss has been recouped from a collateral source;
 - 2. The degree of responsibility for the cause of the injury or death was due to the victim's negligence or through intentional unlawful conduct that substantially provoked or aggravated the incident causing the injury;
 - 3. The claimant has not fully cooperated with the appropriate law enforcement agency. In determining the extent of non-cooperation, the following criteria shall be used:
 - a. The claimant failed to assist in the prosecution of a person who engaged in criminally injurious conduct or an act of international terrorism or failed to appear as a witness, the claim for a compensation award shall be denied;
 - b. The claimant initially decided not to assist in the prosecution of a suspect and later decided to assist in the prosecution and this causes the suspect of criminally injurious conduct or an act of international terrorism to escape prosecution or directly negatively affects the prosecution, the claim for a compensation award shall be denied;
 - c. The law enforcement authority indicates that the claimant was reluctant to give information pertaining to the criminally injurious conduct or act of international terrorism, failed to appear when requested without good cause, gave false or misleading information, or attempted to avoid law enforcement authorities, the award shall be reduced or denied; or
 - d. If the claimant demonstrates that failure to cooperate was due to a compelling health or safety risk, the Board shall make a full award within the constraints in subsection (D).
- F. If there are insufficient funds to make a compensation award, the Board may;
 - 1. Deny the claim;

- 2. Make a partial award and reconsider the claim during the current fiscal year; or
- 3. Extend a valid claim into the next year.
- G. The operational unit shall not provide funds to pay attorney's fees incurred by the claimant.
- H. The operational unit, in its discretion, may directly pay the claimant, the provider, or both.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
 Amended effective December 12, 1990 (Supp. 90-4).
 Amended effective October 28, 1994 (Supp. 94-4).
 Amended effective June 12, 1997 (Supp. 97-2). Former Section R10-4-106 renumbered to R10-4-104; new Section R10-4-106 renumbered from R10-4-108 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4).

R10-4-107. Hearings and Appeals

The Board, in its discretion, may conduct a hearing upon any application in accordance with A.R.S. § 41-1092 et seq.

- 1. A claimant, aggrieved by a decision of the Board may request a hearing within 30 days after service of the decision. A written request for a hearing or review of a Board decision shall specify the grounds for the request. For purposes of this subsection, a Board decision shall be served when personally delivered or mailed by certified mail to the party at the last known residence or place of business.
- 2. A request for a hearing, under this rule, may be amended at any time before it is ruled on by the Board. The Board may require additional written explanation of the issue raised in the request and may provide for oral argument.
- 3. A hearing or review of the decision may be granted for any of the following causes:
 - a. Irregularity in the administrative proceedings of the Board or its operational unit, or any order of abuse or discretion, depriving the requesting party of a fair Board decision;
 - b. Board misconduct;
 - c. Newly discovered material evidence which could not with reasonable diligence been discovered and produced at the original Board meeting;
 - d. Error in the admission or rejection of evidence or other error of law occurring at the Board meeting;
 - e. The decision is not justified by the evidence or is contrary to the rules.
- 4. The Board may affirm or modify the decision or grant a hearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (3). An order granting a hearing shall specify with particularity the grounds on which the hearing is granted and shall cover only those grounds specified.
- 5. Within 30 days after a decision is rendered, the Board may, on its own initiative, order a hearing or review of its decision for any reason for which it might have granted a hearing on a motion of a party. After giving a party or parties notice and an opportunity to be heard on the matter, the Board may grant a request for a hearing for a reason not stated in the request. In either case, the grounds for the request shall be specified.
- 6. For purposes of this Section, the terms "contested case" and "party" shall be defined as provided in A.R.S. § 41-1001.
- 7. If the provisions of this rule are in conflict with the provisions of any statute providing for hearings or decisions of the Board, the statutory provisions govern.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
 Amended effective October 28, 1994 (Supp. 94-4).
 Former Section R10-4-107 renumbered to R10-4-105;
 new Section R10-4-107 renumbered from R10-4-109 and
 amended by final rulemaking at 6 A.A.R. 4727, effective
 November 20, 2000 (Supp. 00-4).

R10-4-108. Emergency Awards

An operational unit may grant an emergency award, if there is a reasonable likelihood that the person is or will be an eligible claimant and serious hardship will result to the person if immediate payment is not made; provided that:

1. The emergency award amount shall not exceed \$500; and
2. The emergency award amount shall be deducted from the final award made to the claimant.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
 Amended effective October 28, 1994 (Supp. 94-4).
 Amended effective June 12, 1997 (Supp. 97-2). Former
 Section R10-4-108 renumbered to R10-4-106; new Sec-
 tion R10-4-108 renumbered from R10-4-110 and
 amended by final rulemaking at 6 A.A.R. 4727, effective
 November 20, 2000 (Supp. 00-4).

R10-4-109. Renumbered**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6).
 Amended effective October 28, 1994 (Supp. 94-4).
 Former Section R10-4-109 renumbered to R10-4-107 by
 final rulemaking at 6 A.A.R. 4727, effective November
 20, 2000 (Supp. 00-4).

R10-4-110. Renumbered**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6).
 Amended effective October 28, 1994 (Supp. 94-4).
 Former Section R10-4-110 renumbered to R10-4-108 by
 final rulemaking at 6 A.A.R. 4727, effective November
 20, 2000 (Supp. 00-4).

R10-4-111. Repealed**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6).
 Amended effective October 28, 1994 (Supp. 94-4). Sec-
 tion repealed by final rulemaking at 6 A.A.R. 4727, effec-
 tive November 20, 2000 (Supp. 00-4).

ARTICLE 2. CRIME VICTIM ASSISTANCE PROGRAM**R10-4-201. Definitions**

In these rules:

1. "Commission" means the Arizona Criminal Justice Commission, established by A.R.S. § 41-2404.
2. "Crime" means conduct, completed or preparatory, committed in this state, that constitutes a crime as defined by the laws of this state whether or not the perpetrator of the act is convicted. "Crime" is not an act arising out of the ownership, maintenance, or operation of a motor vehicle, aircraft, or water vehicle except when a person acts intentionally, knowingly, recklessly, or with criminal negligence, to cause physical injury, threat of physical injury, or death.
3. "Financial support from other sources" means that at least one-fourth of the applicant's program budget is from sources other than the Fund, including in-kind contributions.

4. "Fund" means the Arizona Crime Victim Compensation and Assistance Fund.
5. "Immediate family" means the victim's spouse, child, stepchild, parent, stepparent, sibling, stepbrother, stepsister, grandparent, grandchild, or guardian.
6. "In-kind contribution" means the value of something received or provided that does not have a monetary cost associated with it.
7. "Qualified program" means a victim assistance program, approved by or affiliated with a prosecuting attorney's office or law enforcement agency, that meets the requirements of R10-4-203.
8. "Subrogation" means the substitution of the state, and a qualified program to the extent that the qualified program used financial support from other sources, in the place of the victim to enforce a lawful claim against a third party to recover the cost of the services provided.
9. "Substantial financial support from other sources" means at least half of the financial support to a qualified program is from sources other than the Fund.
10. "Victim" means a natural person against whom a crime is perpetrated. For the purposes of the Crime Victim Assistance Program "victim" includes the immediate family.

Historical Note

Adopted effective December 22, 1986 (Supp. 86-6). Sec-
 tion repealed; new Section R10-4-201 renumbered from
 R10-4-203 and amended by final rulemaking at 6 A.A.R.
 4660, effective November 20, 2000 (Supp. 00-4).

R10-4-202. Administration of the Fund

- A. The Commission shall deposit all funds received under A.R.S. §§ 31-466(A) and 31-411(F) and any other funds received for victim assistance in the Fund.
- B. An application for funds shall be on a form provided by the Commission and shall include:
 1. The amount of funds requested;
 2. A detailed description of how the funds will be spent;
 3. Certification that the program will comply with R10-4-203; and
 4. Whether the program will charge for services and how much the charges are for each service.
5. If the applicant is a private nonprofit organization, the applicant shall include:
 - a. Evidence of nonprofit status; and
 - b. Approval letter from a prosecuting attorney's office or law enforcement agency.
- C. The Commission shall establish a policy that promotes state-wide distribution and effective and efficient use of the funds.
- D. If any funds received from the Commission remain unexpended by a qualified program at the end of the contract period, the funds shall be returned to the Commission within 45 days after the end of the contract and redeposited in the Fund for use in the next fiscal year.

Historical Note

Adopted effective December 22, 1986 (Supp. 86-6).
 Amended effective October 28, 1994 (Supp. 94-4). Sec-
 tion repealed; new Section R10-4-202 renumbered from
 R10-4-204 and amended by final rulemaking at 6 A.A.R.
 4660, effective November 20, 2000 (Supp. 00-4).

R10-4-203. Program Requirements

- A. A qualified program may receive funds from the Commission if the program:
 1. Does not use Commission funds or federal funds to supplant funds otherwise available to the program for victim assistance;

2. Is operated by a public agency or private nonprofit organization, or a combination of public agency and private non profit organization, and provides services to victims;
 3. Uses volunteers to effectively and efficiently provide victim services;
 4. Promotes coordinated public and private efforts to assist victims within the community served;
 5. Assists a victim in seeking available victim compensation benefits;
 6. Complies with all applicable civil rights laws;
 7. Submits to the Commission quarterly financial reports on a form provided by the Commission containing detailed expenditures of funds received from the Commission and detailed expenditures of matching funds;
 8. Submits an annual report to the Commission on a form provided by the Commission. The report shall contain the following:
 - a. Number of victims served by type of crime during the reporting period;
 - b. Type of services provided;
 - c. Number of times each service was provided;
 - d. Ethnic background, age, and sex of each victim served;
 - e. Number and type of assistance provided to victims in obtaining victim compensation; and
 - f. A narrative assessment of the impact of Commission funds on the program;
- B.** An existing program shall:
1. Have substantial financial support from a source other than the Fund; and
 2. Have a history of providing effective services to crime victims. The Commission shall determine if the services are effective based on the following:
 - a. The length of operation; and
 - b. An assessment of the program's services that shows the results are achieved in a cost effective manner.
- C.** A new programs shall:
1. Have financial support from a source other than the Fund, and
 2. Demonstrate a specific need for victim services that is currently not being met.
- B.** The qualified program shall not use Crime Victim Assistance funds for the following:
1. Crime prevention efforts, other than those aimed at providing specific emergency help after a victimization;
 2. General public relations programs;
 3. Advocacy for a particular legislative or administrative reform;
 4. General criminal justice agency improvement;
 5. A program in which victims are not the primary beneficiaries;
 6. Management training and training for persons who do not provide direct services to a victim; or
 7. Victim Compensation provided under R10-4-101 et seq.

Historical Note

Adopted effective December 22, 1986 (Supp. 86-6).
 Amended effective October 28, 1994 (Supp. 94-4).
 Former Section R10-4-203 renumbered to R10-4-201;
 new Section R10-4-203 renumbered from R10-4-205 and
 amended by final rulemaking at 6 A.A.R. 4660, effective
 November 20, 2000 (Supp. 00-4).

R10-4-204. Services

- A.** Funding may be provided to a qualified program for any of the following:
1. Crisis intervention services for the urgent emotional or physical needs of a victim, which may include a 24-hour hotline for counseling or referrals for a victim.
 2. Emergency services including:
 - a. Temporary shelter for a victim who cannot safely remain in current lodgings;
 - b. Petty cash for immediate needs related to transportation, food, shelter, and other necessities; or
 - c. Temporary repairs such as locks and windows damaged as a result of a crime. to prevent the immediate reburglarization of a home or apartment.
 3. Support services, including:
 - a. Follow-up counseling dealing with the victimization;

Historical Note

Adopted effective December 22, 1986 (Supp. 86-6).
 Amended effective October 28, 1994 (Supp. 94-4).
 Former Section R10-4-204 renumbered to R10-4-202;
 new Section R10-4-204 renumbered from R10-4-206 and
 amended by final rulemaking at 6 A.A.R. 4660, effective
 November 20, 2000 (Supp. 00-4).

R10-4-205. Renumbered**Historical Note**

Adopted effective December 22, 1986 (Supp. 86-6).
 Amended effective October 28, 1994 (Supp. 94-4).
 Former Section R10-4-205 renumbered to R10-4-203 by
 final rulemaking at 6 A.A.R. 4660, effective November
 20, 2000 (Supp. 00-4).

R10-4-206. Renumbered**Historical Note**

Adopted effective December 22, 1986 (Supp. 86-6).
 Amended effective October 28, 1994 (Supp. 94-4).
 Former Section R10-4-206 renumbered to R10-4-204 by
 final rulemaking at 6 A.A.R. 4660, effective November
 20, 2000 (Supp. 00-4).

R10-4-207. Repealed**Historical Note**

Adopted effective December 22, 1986 (Supp. 86-6).
Amended effective October 28, 1994 (Supp. 94-4). Section repealed by final rulemaking at 6 A.A.R. 4660, effective November 20, 2000 (Supp. 00-4).

ARTICLE 3. REPEALED**R10-4-301. Repealed****Historical Note**

Adopted effective September 11, 1986 (Supp. 86-5).
R10-4-301 repealed by summary action with an interim effective date of November 28, 1997; filed in the Office of the Secretary of State November 3, 1997 (Supp. 97-4).
Adopted summary rules filed March 16, 1998; interim effective date of November 28, 1997, now the permanent effective date (Supp. 98-1).

R10-4-302. Repealed**Historical Note**

Adopted effective September 11, 1986 (Supp. 86-5).
R10-4-302 repealed by summary action with an interim effective date of November 28, 1997; filed in the Office of the Secretary of State November 3, 1997 (Supp. 97-4).
Adopted summary rules filed March 16, 1998; interim effective date of November 28, 1997, now the permanent effective date (Supp. 98-1).

R10-4-303. Repealed**Historical Note**

Adopted effective September 11, 1986 (Supp. 86-5).
R10-4-303 repealed by summary action with an interim effective date of November 28, 1997; filed in the Office of the Secretary of State November 3, 1997 (Supp. 97-4).
Adopted summary rules filed March 16, 1998; interim effective date of November 28, 1997, now the permanent effective date (Supp. 98-1).

R10-4-304. Repealed**Historical Note**

Adopted effective September 11, 1986 (Supp. 86-5).
R10-4-304 repealed by summary action with an interim effective date of November 28, 1997; filed in the Office of the Secretary of State November 3, 1997 (Supp. 97-4).
Adopted summary rules filed March 16, 1998; interim effective date of November 28, 1997, now the permanent effective date (Supp. 98-1).

R10-4-305. Repealed**Historical Note**

Adopted effective September 11, 1986 (Supp. 86-5).
R10-4-305 repealed by summary action with an interim effective date of November 28, 1997; filed in the Office of the Secretary of State November 3, 1997 (Supp. 97-4).
Adopted summary rules filed March 16, 1998; interim effective date of November 28, 1997, now the permanent effective date (Supp. 98-1).

**ARTICLE 4. DRUG AND GANG ENFORCEMENT
ACCOUNT ADMINISTRATIVE PROGRAM**

R10-4-401. Definitions

In this Article:

1. "Account" means the Drug and Gang Enforcement Account established by A.R.S. § 41-2402.

2. "Commission" means the Arizona Criminal Justice Commission, established by A.R.S. § 41-2404.
3. "Approved Program or Project" means a program or project delivering services that meet the requirements of A.R.S. § 41-2402.
4. "Approved Agency" means a unit of state or local government providing services that meet the requirements of A.R.S. § 41-2402.

Historical Note

Adopted as an emergency effective February 22, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Adopted without change as a permanent rule effective July 18, 1988 (Supp. 88-3). Amended effective October 28, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 1007, effective February 8, 2001 (Supp. 01-1).

R10-4-402. Application

To apply for Account money, an approved agency shall submit to the Commission a written application for Account money containing the following:

1. The name and address of the applicant agency,
 - a. The name of the authorized official submitting the application,
 - b. The name of the person with primary responsibility for administering and supervising the approved program or project, and
 - c. The name of the person responsible for fiscal matters relating to the approved program or project;
2. The amount of Account money requested;
3. The purpose of the request for Account money, consistent with A.R.S. § 41-2402(A);
4. The program or project title;
5. The program or project description including:
 - a. The goals and objectives to be achieved by the program or project, and the method for evaluating the achievements of the program or project;
 - b. The estimated amount of the applicant agency's funds and resources allocated to the program or project;
 - c. The estimated total project cost;
 - d. A detailed budget of how the Account money will be used;
 - e. An estimated completion date; and
 - f. The anticipated fiscal and operational impact Account money will have on the applicant agency.

Historical Note

Adopted as an emergency effective February 22, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Adopted without change as a permanent rule effective July 18, 1988 (Supp. 88-3). Amended effective October 28, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 1007, effective February 8, 2001 (Supp. 01-1).

R10-4-403. Application Review; Approval by the Commission

- A. The Commission shall review each application and make a decision to grant or deny funding within 90 days of the last day on which applications may be submitted.
- B. If the Commission determines that additional information is needed to facilitate its review of an application, the Commission shall:
 1. Request additional information from the applicant agency, or
 2. Request application modifications.

- C. After review, the Commission shall vote to approve or disapprove the application, in whole or in part, on the basis of standards prescribed by the federal government for federal money deposited into the Account as provided under A.R.S. § 41-2402(F).

Historical Note

Adopted as an emergency effective February 22, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Adopted without change as a permanent rule effective July 18, 1988 (Supp. 88-3). Amended by final rulemaking at 7 A.A.R. 1007, effective February 8, 2001 (Supp. 01-1).

R10-4-404. Annual Report

- A. No later than September 30 each year, a grantee shall submit a written report to the Commission that contains:
1. The amount of Account money held by the grantee at the beginning of the fiscal year;
 2. The amount of Account money received by the grantee from the Commission during the fiscal year;
 3. The amount of Account money expended to achieve the goals and objectives stated in the application;
 4. A narrative assessment of the effective and efficient use of Account money to meet stated goals and objectives during the fiscal year, including an assessment of enhanced efforts to deter, investigate, prosecute, adjudicate, and punish drug offenders and members of criminal street gangs;
 5. The amount and disposition of assets seized, money generated by fines, and other financial benefits generated by the grantee, as a result of the use of Account money; and
 6. Other information the Commission may request to comply with requests from the federal government for information related to the expenditure of federal grant money from the Account.
- B. The Commission shall compile this information in the annual report required under A.R.S. § 41-2405(A)(12) and forward it to the Governor, President of the Senate, and Speaker of the House of Representatives.

Historical Note

Adopted as an emergency effective February 22, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Adopted without change as a permanent rule effective July 18, 1988 (Supp. 88-3). Amended effective October 28, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 1007, effective February 8, 2001 (Supp. 01-1).

ARTICLE 5. FULL-SERVICE FORENSIC CRIME LABORATORY ACCOUNT

R10-4-501. Definitions

In this Article:

1. "Account" means the Full-service Forensic Crime Laboratories Account established by A.R.S. § 41-2421(J)(5).
2. "Commission" means the Arizona Criminal Justice Commission established by A.R.S. § 41-2404.
3. "Full-service forensic crime laboratory" means a facility that:
 - a. Is operated by a criminal justice agency that is a political subdivision of the state;
 - b. Employs at least one full-time forensic scientist who holds a minimum of a bachelor's degree in a physical or natural science;
 - c. Is registered as an analytical laboratory with the Drug Enforcement Administration of the United

States Department of Justice for possession of all scheduled, controlled substances; and

- d. Provides, at a minimum, services in the areas of drugs, serology and DNA, and firearms and tool-marks.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2217, effective May 11, 2001 (Supp. 01-2).

R10-4-502. Grant Solicitation Process

The Commission shall annually publish and forward to all Arizona criminal justice agencies that operate a full-service forensic crime laboratory a grant solicitation for distribution of Account monies. The grant solicitation shall contain:

1. The Commission's goals for the grant program for the current allocation year,
2. Applicant eligibility criteria,
3. The format in which grant applications must be submitted,
4. The date by which grant applications must be submitted,
5. Grant application evaluation criteria,
6. Project expenses for which Account monies may be used,
7. The period in which all Account monies must be expended,
8. Account money reversion criteria and process, and
9. The award denial appeal process.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2217, effective May 11, 2001 (Supp. 01-2).

R10-4-503. Grant Application Review; Approval by the Commission

- A. The Commission shall review each application and make a decision to approve or disapprove an application within 120 days of the date by which grant applications are due.
- B. If the Commission determines additional information is needed to facilitate its review of an application, the Commission shall request from the applicant:
1. Additional information, or
 2. Application modifications.
- C. After review, the Commission shall vote to approve or disapprove an application in whole or in part, based on:
1. The grant criteria published in the grant solicitation;
 2. The amount of funds available for the current allocation year; and
 3. Compliance with the application format.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2217, effective May 11, 2001 (Supp. 01-2).

R10-4-504. Reports

- A. Within 20 days after the end of the first through third calendar quarters, a grantee shall submit a written report to the Commission containing:
1. The amount of Account money available for use at the beginning of the ending quarter,
 2. An itemized accounting of the amount of money expended or encumbered during the quarter,
 3. A projected date of expenditure of encumbered Account money, and
 4. The unspent and unencumbered balance to begin the next quarter.
- B. Within 60 days after the end of the fiscal year, a grantee shall submit a written report to the Commission containing all of the following information:

1. The beginning balance of the Account money for the fiscal year,
2. The total amount of Account money expended by the grantee during the fiscal year,
3. The total amount of the encumbrances remaining at the end of the fiscal year,
4. An itemized accounting of how the expended Account money (including outstanding encumbrances) is related to the stated project goals and objectives, and
5. A narrative assessment of the effective and efficient use of Account money to meet stated goals and objectives during the fiscal year.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2217, effective May 11, 2001 (Supp. 01-2).